Members of the Commonwealth, the constitutional importance of her symbolical function is now enhanced. It remains to be seen whether the term " realms " will adequately replace " Dominions " in the vocabulary of Commonwealth relations; the term cannot be used to include India or Pakistan. Changes are necessary in the Coronation Oath in consequence of constitutional developments since 1937, and agreement upon the new form of Oath proposed by the United Kingdom has been reached with the Commonwealth countries.[26] While resisting the temptation to predict the future course of constitutional development within the Commonwealth, one may at least expect that the adoption of local titles by the Sovereign under the new scheme will contribute to the dispelling of popular misconceptions about the true status of Members of the Commonwealth and will resolve doubts entertained by some international lawyers. Those who would squeeze the Commonwealth into one of the accepted categories of international persons will not, however, find the task any easier. With the gradual demolition of the theory that the Crown is indivisible the Commonwealth has come to resemble a personal union; but the Queen is not Queen of India and her status in relation to Pakistan is equivocal. All countries of the Commonwealth are united in recognising her as its Head; but in this capacity she exercises no positive constitutional functions, nor is she designated " Queen of the Commonwealth." And it would be wrong to assume that because the Crown has been shown to be divisible it is already wholly divided, for all purposes and for all Members of the Commonwealth, into a number of separate Crowns. The Commonwealth contains within itself a legal and conventional order that defies analogy if not analysis. In the society of nations it remains resolutely unique.

S. A. DE SMITH.

A NOTE ON THE CLAIMS OF SPOUSES AND CHILDREN TO A PART OF PERSONAL PROPERTY AS ILLUSTRATED BY THE TRADITIONAL SYSTEMS OF THE CHANNEL ISLANDS AND THE ISLE OF MAN RESPECTIVELY, AND THEIR POSITION TODAY THERE AND IN SCOTLAND.

THE Committee of Inquiry into the Law of Succession in Scotland remark, in their report of 1951, that, among the respects in which the systems of most countries are alike, " there is some system of

[26] Mr. Winston Churchill, 511 H.C.Deb., cols. 2099–2100 (February 25, 1953). This will be the fifth occasion on which the terms of the Coronation Oath, prescribed though they are by statute, have been changed without legislative sanction. The changes (see *The Times*, March 17, 1953) are small and in themselves wholly desirable.

legal rights (with a few exceptions, notably England)." They then go on to note that there is now " even there a modified form of such a system " under the Inheritance (Family Provision) Act of 1938.

Whereas in England the rights which this Act restored in modified form lapsed in the greater part of the Southern Ecclesiastical Province by the sixteenth century or earlier, and were abolished by statute where they had been retained, namely in the Province of York, some parts of Wales, and for citizens and freemen of London, in the late seventeenth and early eighteenth centuries in many other countries of West European traditions, including Scotland, they have been preserved to this day. In many parts of the Continent of Europe, however, their continuity from medieval or pre-medieval to modern times has been somewhat obscured by the supersession or translation of customary or common law by or into codes, from the Code Napoleon onward. In the British Commonwealth, in contrast, customary law often remains uncodified, and, wherever it derives from a European but not an English source, and has not been altered on the English pattern, a continuous usage can be traced.

Apart from Scotland, the examples nearest home are the Channel Islands and the Isle of Man, which conveniently provide instances of the two chief patterns of distribution of property which appear to have been characteristic of Western Europe in the Middle Ages: the threefold, between husband, wife and children, and the twofold, between husband and wife. The former is still the usage in the Channel Islands, in both Bailiwicks and all the islands, as it is in Scotland. The latter survived in the Isle of Man in a somewhat mangled form, having been mutilated by statute in 1777 and 1851, until it was abolished in 1921. Inheritance claims were restored 18 years later in modified form, on the English example, in a (Manx) Inheritance (Family Provision) Act.

In Guernsey a clear statement of the legal rights of widows and of children to personal property was embodied in a statute of 1872. The purpose of this *Loi* was not to prohibit to parents the free disposition of all their personal property. Customary law did this already as it still does in Jersey (and in Scotland), without any need for statutory pronouncement. It was to declare and clear away doubt about their freedom from restriction in disposing of part, and was accordingly entitled *Loi relative à la Portion Disponible des Biens Meubles des Pères et Mères.*

The principal rights are thus defined :—

Article II. The right (*légitime*) of the children to the succession of the father's personal estate is as under :—

If he leaves a widow one-third.

If he leaves no widow one-half.

Article IV. The right (*droit*) of the widow to the succession of her husband's personal estate is as under :—

If he leaves children one-third.

If he leaves no children one-half.

Article VI. By the term children . . . is included the descendants . . . in whatever degree . . . in respect of the child whom they may represent.

In 1929 an amended *Loi* was passed to bring it into harmony with the Guernsey *Loi étendant les Droits de la Femme Mariée quant à la Propriété mobilière et immobilière* (Married Women's Property Law) of the previous year. The word " father " in the statement of the children's *légitime* was altered to " parent (father or mother) " and the word " widow " to " spouse " (conjoint), giving children the same claim on the property of both parents and widowers the same claim to their wives' property as widows to their husbands'.

It will be noted that the claims of widow and children were the same in Guernsey as in Scotland and that the same changes have been made as in the Married Women's Property (Scotland) Act of 1881. On the other hand representation is not as yet accepted in Scotland with respect to legitim; though this is recommended in the report of 1951.

Alderney accepted the Guernsey *Loi* of 1872. She did not accept the revision of 1929 as she had not accepted the Married Women's Property Law of 1928. Recently, married women have received control of their own property under the Alderney Land and Property Law, 1949, and it remains to be seen whether legal rights will be adjusted there in harmony. The applicability of the then existing Guernsey law to Sark seems to be implied in the findings of a Royal Commission which received the Royal Consent in 1583, and was thereupon announced there, but Sark has not accepted many of the subsequent statutory changes, so that her law largely remains as Guernsey's used to be. Presumably, accordingly the Guernsey statement of 1872, since it declared customary law and did not create it, is still true for Sark as for Alderney.

Except that both are variants of the Coûtume de Normandie, Jersey law is quite distinct from that of the other Bailiwick (of Guernsey, including Alderney and Sark). The chief remaining traditional difference in legal rights is that, when there is no surviving spouse, children there can claim not only half but two-thirds of the parent's personal estate. A further difference before the Married Women's Property laws and still affecting earlier marriages was

the extensive practice in Jersey of *Séparation Quant au Biens*. This was possible, without separation *de Mensa et Thoro*, under the Coûtume de Normandie and accordingly in both Bailiwicks, but came into common use in Jersey in lieu of marriage settlements. Under this a wife had the same power of disposition as if she had been a widow, and her children the same claim, namely to two-thirds. Accordingly, to give the widower in Jersey the same claim on the estate of the deceased spouse as the widow would in many cases be to reduce the children's claim from two-thirds to one-third, and no such change has been made. Therefore, the exact balance between the sexes characteristic of legal claims as amended in harmony with the Married Women's Property Law in Guernsey (and in Scotland) has not as yet been achieved in Jersey, where the only amendment so far deemed necessary deals only with the minor matter of the estate of childless widows dying intestate.

It is often asserted that inheritance rights in the Channel Islands do not imply community of goods, and that this was rejected by the Coûtume de Normandie. It was certainly denied in the Coûtume as revised in 1583. On the other hand, in the earlier classic statement, the *Summa de Legibus in Curia Laicali*, or *Grand Coûtumier de Normandie*, of the mid-thirteenth century, which seems, from a reference in a Jersey document, to have been known there by 1309, the only statement on this matter does not reject the idea, but says " man and wife are two in one flesh, and their possessions should be one." It continues, however, " which belong to the husband alone " (*quae soli viro appropriatur*). This last is obviously not a necessary consequence of pooled possessions and, as will be seen in the traditional usage of the Isle of Man, a true *communio bonorum* may be impressively equalitarian. In the Channel Islands, however, the movable property on which widow and children could ultimately claim their parts seems to have been regarded from an early date as in the sole power of the husband and father during his lifetime. It is possible that the threefold, as contrasted with the twofold, division is, at least in some communities, related to such an outlook. As will be seen in the case of the Isle of Man, it was the evenly balanced position of man and wife there, and the inheritance of the children from each separately, that protected the children's rights, without a *separate* child's part. Moreover, the separate child's part complicates the division, and where it existed the *full* distribution seems seldom to have taken place on the wife's death if this occurs first. In Scotland *her* share descended to her children on her death (until 1855) but *their* share was, to use Erskine's word (Institute of the Law of Scotland, *circa* 1768, III ix. p. 1004) " smothered " by the power of the father so long as he lived. There seems to be no

record of there ever having been any distribution on the wife's death in the Channel Islands, if this occurred first, even of the part she would have received if she had outlived her husband.

The term *légitime* (*cf. legitim* in Scotland) recalls the Roman *légitima portio*. While however it undoubtedly expresses a claim of unity of principle with the Roman law in this field, it need not imply that the latter was the sole origin of the distinct children's share, inalienable by will. Poingdestre, the Jersey jurist, while he says the children's part in Jersey is " none other than " the Roman law, points out that it is larger relatively to their claim in intestacy than set forth by Justinian.

As the words from the *Summa* imply, community between man and wife was regarded as a matter of divinely instituted natural law. In like manner, Poingdestre regarded the children's claim, *légitime*, as founded in natural and divine law. His discussion has an interesting resemblance to that of Lord Stair, who was writing about the same time in Scotland (*Les Lois et Coûtumes de l'Ile de Jersey*, Jean Poingdestre, *circa* 1676, pp. 139–149, *Institutes of the Law of Scotland*, James Dalrymple, Lord Stair, 1681, III iv, 14 and viii, 45).

Séparation quant au biens did not destroy the claim of the wife to a share of her husband's property on his death, while its effect on the part of the children was to make this claimable on the estate of each parent separately. The retention of these claims alongside the modern Married Women's Property Laws is accordingly in harmony with earlier practice, and these are preserved, with such amendment only (considerable in Guernsey as in Scotland, slight in Jersey) as the new conditions are deemed to require.

There was some danger recently that the inheritance rights, which have come down in Guernsey from the earliest times and have already been adjusted in so enlightened a manner to harmonise with the separate possession of married women of their own property, might be abolished and replaced in weakened form by an Inheritance (Family Provision) Act on the English model. On second thoughts, however, the committee set up to consider inheritance laws in Guernsey withdrew their proposal to this effect. Deliberations are still continuing and the final upshot cannot be regarded as certain.

There has never been any proposal to abolish inheritance rights in Jersey, while in Scotland the signatories of the report of 1951 are unanimously in favour of their retention.

Though the term Community of Goods, either in Latin or English, has seldom if ever been used in the Isle of Man, the greater part of the island seems always up to 1777 to have been characterised by it in an impressively equalitarian form.

The first direct statement of the rights of husbands and wives on the death of either occurs in *The Book of the Customary Statutes of the Isle of Man*, set down on the request of Henry, Fourth Earl of Derby and Lord of Man, in 1577, but then declared to have been "held and allowed of long time heretofore." There are, however, preserved in the Manx Statute-book, three earlier statements, all dating probably from round about 1500, bearing upon it. One of these concerns a wife and mother who "did perish herself," and the resulting confiscation of "such goods as belonged to her," otherwise described as "her part of" beasts and other property, and consequent disinheritance of her young daughter, so far as "her mother's goods" were concerned, except apparently for anything already allotted to her at her christening, described as "that which was given the said child at the font stone." The second balances this by declaring "If any forfeit his goods . . . by felony, his wife shall not forfeit her part of goods," while the third declares, in the form of a reply to a question, the absolute rights of motherless children whose father has married again to "their mother's goods."

Probably within a decade of the setting down of the Customary Laws in 1577, a statement was drawn up entitled *The Book of the Spiritual Laws and Customs*. This was presented on demand to and confirmed by the civil legislature of the island in 1610 and therefore appears in the Statute-book. As wills and succession to personal property were the concern of the Church Courts, this also contains a statement of the property rights of husband and wife therein, which, though substantially the same as that in the Customary Statutes, is somewhat fuller and seems to show, as might be expected in this sphere, a more intimate administrative experience.

The relevant passage of the Customary Statutes of 1577 (paragraph 1) runs as follows:—"If any Man die, the Wife to have the Half of all his Goods moveable and immoveable, and the Debts to be paid out of the Whole, and also the Wife to have the one half of the Tenement wherein she dwelleth during her Widowhood." Later in the document, in paragraph 25, there is a statement which appears to conflict with the first part of this, since it declares that the wife is "to have the one Half of his immoveable Goods, and the third Part moveable Goods, having children."

The Spiritual Laws explain this as a difference between the South and the North part of the Island. They make it clear that the distribution took place on the death of either partner, so that the system was in that respect equalitarian: "every Man and

Wife which depart this life upon the South Side of the Isle do stand in one effect; that is to say the man to have one Half and the Wife the other Half." On the North also "of all Goods immoveable, not having any life, the Wife hath the Half," but if there are children "the Goods moveable are divided into three parts, viz., one part to the Executors (or, as made explicit in one edition, the children) another part to the Dead, and the Third Part to the Wife."

Bishop Wilson, in his brief *History of the Isle of Man* (1722) defines the part of the Island where the wife only got a third of certain property as "the six Northern parishes" out of the total of 17, and defines the property in question as "the living goods," which an inventory drawn up on the death of a married woman in Ballaugh, one of these parishes, in 1695, seems to identify with domestic animals and them only. William Ross, a master at the school at Castletown, produced a set of tables, which probably dates from fairly early in the eighteenth century, since he died in 1754 at the age of 84, "for the just proportion of inventories in the Northern Division of the Isle of Man, where the husband is entitled to two-thirds of the living and to the half of the dead goods" (Manuscript in Manx Museum). Except the statement in the Spiritual Laws, there is no sign that the division of "living goods" in these six Northern parishes was anything but an unequal 2 : 1 division between man and wife, or that there was a share directly claimable by the children. By 1777, the fact that there had ever been anything but an equal division anywhere in Man seems to have been forgotten, since the preamble to an Act of that year simply declares that women are "by Custom entitled to one-half of their Husbands' personal Estate and Effects within this Isle."

The division into half was so much the most characteristic of Man that, very soon after the above statements in the Customary Statutes and the Spiritual Laws, we have an allusion to "a moiety" as though it were everywhere and in everything the wife's share. In 1593, by "My Lord's Resolution," which became an Act and appears in the Statute-book, a woman divorced for adultery lost her right to "a moiety of such goods and chattels as her husband and she were ceised of." She might still, however, receive "so much as shall be agreed upon by the Bishop . . . the Governor, and the rest of the Officers, for her maintenance," a right which the court records show was accepted quite seriously and generously even when the woman's offence was aggravated, as, *e.g.*, in a case of adultery and incest. Three years earlier, a question was asked as to whether, after a separation or divorce

on the grounds of adultery, "the husband, after a composition between them that she shall not make title or claim to any of his goods and chattels, may give or grant any part or parcel of his goods and chattels, by the Law of the Isle, without the consent of his said wife from whom he was separated or divorced." The reply was that he might "having compounded with her" (Liber Scacc. 1590). It would appear that normally the disposal of any substantial property, real or personal, was in the sixteenth century a matter for the joint decision of husband and wife, and either alone could at most dispose of his or her half share. Most of the decisions reported are about land or houses, as this was the form of property of most interest to the Lord and the Lord's (civil) Courts, but there is no sign of any difference between lands of inheritance and bought lands or intacks (*i.e.* enclosures) both of which were regarded as chattels, in the wife's power to withhold her consent to their disposal by sale or gift, while each of the spouses could dispose by will of, but only of, his or her share of all property so disposable.

When we come to examine, in the records of the Episcopal and Archidiaconal Courts, wills and the inventories drawn up in connection with the disposal of property on death, this last fact is quite clear. The first available are a little, but only a little, later than the decision quoted above. Some, especially among the earliest, are difficult to read and some words hardly legible, but quite enough can be made out to show the general procedure. An inventory may be of the joint property of husband and wife, as for instance that "taken the eighth day of January, 1633, of all the goods of William Waterston and also the goods of Elizabeth Conely his wife and all (? assets) moveable and immoveable." Otherwise it will be headed "his share of" or "her share of" or the items will be so described, or as "the half (or occasionally 'the third') of" or "the dead's part of," or there may be some attempt to divide the easily divisible items and then in the middle of the list something that cannot be so simply divided will appear as "the half" or "the dead's part of."

There are large numbers of wills both of men and women, married and unmarried. Among married people the general contents of those made by the husband and the wife are closely parallel. They seldom leave more than a small personal legacy to each other, since half the goods belonged to each already, and the rest was commonly bequeathed to the children, except for a customary gift, in kind, to the poor, and small bequests to other relatives and friends. The children are almost always nominated

as " executors " which meant in fact residuary legatees. Where the children are young, supervisors of them and of their heritage from the deceased parent are often nominated in the will. One parent may nominate the other. The following is a case in point dated 1633 : " I bequeath all my goods, moveable and immoveable, to my children . . . they to be my executors jointly and indifferently of all my goods aforesaid, provided that none of my children shall receive their aforesaid goods during the time of their minority but all be left in their father's hands . . . and also I appoint my said husband William Coile supervisor of all my children." In like manner a husband in 1638 appointed " his wife to have tuition of the children and their goods till they come to lawful years." It was, however, quite common for a parent to appoint friends or relatives on his or her side of the family, supervisors of the children. Catherine Hoyle, alias Quale,[1] for instance, while leaving in 1695 some bequests " to her sorrowing husband " including " her part of the riding horse," " wished Huge Stevenson and Thomas Quale, her brother, should be overseers of her children." Such a provision does not appear to be any indication of lack of trust in the spouse, who usually receives a legacy and is sometimes referred to in terms of warm affection in the same will; but to be in accordance with current views of what was proper and fitting. This is shown by the habitual policy of the courts in case of intestacy. Then, whether it was the husband or wife who had died, the court, while nominating the children as executors, usually nominates some of their relatives on the side of the deceased parent as supervisors. Further, in such case, it was the practice of the court to grant the widow or widower (of course in addition to her or his share, which is not a legacy) " a legacy upon sight of the inventory."

The great detail to which the assumption that everything belonged half to the husband and half to the wife could be carried is shown in the case of the widow of William Christian (known as Illiam Dhone) who was executed in 1663. In cases of succession on natural death, relatives under the guidance of the Church Courts may have divided the goods with a certain amount of give and take and common sense, but a division following an execution for treason was a more rigorous affair. The detailed inventory of the goods which was drawn up is published in the Journal of the Manx Museum for March, 1934, and fills a page and a half with the contents of stable, milkhouse, brewhouse, and the dwelling house, room by room. It is noted at the head, " there is one half

[1] This is the Manx style for a married woman. In Scotland she would have been " Catherine Quale or Hoyle."

due unto the Right Honourable the Lord of this Isle and the other half due unto the widow according to the Laws of this Isle." At the end is appended a plea from the poor lady herself: "And for the wearing apparel Mrs. Christian, widow, desires that her husband's apparel to stand in lieu of her own and that his may be praised and her own to be reserved."

As compared to the rights of children in the Channel Islands, Scotland, and other countries where they have a claim to a third of their parents' property as legitim, the rights of Manx children were, at first sight, negligible. As the Customary Statutes of 1577 (paragraph 2) put it: "If there be any Man or Woman that mislike their Children's behaviour, the Parties making their Will before the Priest and Clerk, or sufficient Witnesses, that then if the Parties do bequeath to their said Children but 6d. they can claim no more for their Child's Part of Goods." It will be observed, however, that they could not be disinherited merely by being omitted from a parent's will; they must have something, and they received their proportionate share unless 6d. or more, or goods to at least that value, were allotted to them by name.

An examination of wills shows that in the vast majority of cases the bulk of the property descended to all the children. To cut any off is rare and when it occurs seems to be due to a child being regarded as having had his share already. A father in 1632 for instance, after making bequests to his sons Donald and John, goes on, "to Robert if he shall seek anything that belonged to father or mother, 6d., for I have given him more than was due to him by his child's part of goods."

This last phrase appears usually to mean a child's inheritance from a parent already dead. As has been seen, the personal estate of a couple belonged to both jointly, and part (normally half) could be bequeathed, usually on the deathbed, by each. Not only has the will of the parent who died first usually in favour of the children, but, if that parent died intestate, his or her share came to them as a matter of course. Thus, the fact that the two parts of the family property passed on separately was a great safeguard to the children, who could only be cut off from both parts by the separate acts of both parents, in which case the deprived son or daughter presumably got the proverbial 1/-, 6d. from each parent. Otherwise he got the goods of the parent from whom he was not estranged or who had died before the estrangement. Most had already had this before the second parent died.

One important result of this right of children to inherit, by will or on intestacy, from each of their parents separately, was to

safeguard their heritage from being entirely diverted to a step-parent or a second family. The records of wills and of the distribution of the property on intestacy are often endorsed, years later, by children certifying that they have received all their part in their father's or mother's goods, usually in money value. It is sometimes apparent that the surviving parent has meanwhile married again and there is a step-parent on the scene.

An example is the case of the children, John, William and Elizabeth, of Thomas Bridson, who were declared by the court to be " sole and joint administrators of all his goods moveable and immoveable, the next of kin on the father's side supervisors." The record is endorsed with the subsequent history. John and Elizabeth died, and it is noted what their mother spent on their funerals. £1/10/0 was spent " for instructing William in his trade," 18/- " for his clothing and shoes," and he received at different times from his step-father Edward Quey, £6/13/9 and £1/18/1, and then finally " William, the only surviving son, came and acknowledged, fully satisfied with all that fell due to him by the decease of his father." Altogether accordingly, the separate power of bequest or intestate succession from their two parents, together with the provision that every child had an equal share in the succession from each, unless picked out by name to have only a legacy of not less than 6d., did in practice very effectively secure a child's part to each child, as an examination of wills and court decisions shows clearly.

A married woman's will in the Isle of Man, like that of her husband, was an act of responsible stewardship of material goods and concern for children and friends, expected of her, as of her husband, by spouse, family, neighbours, and the minister of the parish, as part of a decent and Christian preparation for death. Occasionally the dying spouse would ask the other to allow something from his or her share to be included, especially in a bequest to the eldest son; it is the survivor who makes such concessions, and will probably be given some *quid pro quo*, if not explicitly in the will, then in its interpretation by the court. One father for instance in 1678 had clearly set his heart on—not only his own but also his wife's part of the team of oxen, and, somewhat less urgently, of the crop of corn, going, with the land, to his eldest son, Thomas. The wife's part of these seems to have been valued at £3, and it is recorded that " she replied, ' that were little enough for the nursing of the child, if I be with child,' and upon this he said again, ' you have your own still.' " The record of the Church Court, which must be based on the report of the minister present at the scene recorded, goes on, " After which discourse the

testator and his wife held their tongues for a pretty space, and then again he said, 'What say you? Will you give your consent to the half team of oxen?' and she replied, 'I will.'" When there was persuasion it seems to have been exercised not by a vigorous spouse on a dying partner, but by a dying spouse on a partner about to be widowed, and must have drawn its strength not from compulsion but from affection.

In 1777, 12 years after the Island had been purchased from the Duke of Atholl and vested in the Crown, the Tynwald Court passed a group of Acts, one design of which, according to the preamble, was that Manx laws should be "made to bear the nearest resemblance to the System of English Jurisprudence." One of these was entitled "An Act for ascertaining the Interest of a Wife or Widow in the Estate of her Husband." It left her the right to a half share on her husband's death, and also the right to make a will in his lifetime, but thenceforward she could do so only in her husband's favour or that of her lawful issue.

Even more serious in its disturbance of the equal balance between husband and wife than the reduction of a married woman's power of bequest, was the provision that, on a wife's death intestate, the whole property belonged to the husband, even if there were issue, instead of being divided and the wife's part descending to the children as previously. That this was to disinherit any child whose mother died intestate before his father, if the father so willed, and to remove the safeguard preventing the children of a first marriage from being pushed out of their heritage by a second family (unless their mother had made a will in their favour) was probably not noticed. Nor was it noticed or thought serious that now, for the first time in man, a motive was provided for a selfish or spendthrift husband to try to prevent his wife making a will in favour of their children. This change, together with an immediately preceding Act discouraging deathbed wills, might go far to make the will of a married woman, not, as it had been, the universally accepted and expected expression of her responsibility as a joint-owner of property, and as a mother, but a deliberate, and perhaps even an exceptional, action to restrict what, in the absence of such a will, was the sole power of the husband.

It is interesting to observe that this statute states that the power of making settlements of purchased land or personal estate "by or between any party or parties, either before or after their intermarriage" is to continue. Even this Act, which removed a large part of the power of action of married women, was couched in terms, and accepted procedure, which assumed that a settlement

or deed between husband and wife was a reality *even after marriage*, in contrast to the position in countries where such settlements only had validity if entered into before marriage, and deeds between husband and wife were without legal force.

Towards the middle of the next century Laurence Adamson, a member of the English Bar, who was Seneschal of the Island at the time, urged that Manx law should be further revised on the English pattern. He called attention to the recent English Act by which a widow's claim to dower could be defeated by will, and would apparently have liked to persuade the Manx people to abolish both dower on land and widowright to movable property. Manx lawyers and people were not prepared to go so far at that time; these rights were too firmly established historically. A Bill was, however, brought before the Keys abolishing the last remnant of the power of married women to bequeath their share in their husband's lifetime, and this was passed and came into force in 1852.

As has been noted, before 1777 the joint property of the parents descended to the children in two parts, whether under their separate wills or on the intestacy of either or both, so that the motherless or fatherless child had "his mother's (or his father's) child's part." The Act of 1777 made "his mother's child's part" much less certain, as he no longer received it if she died intestate; the Act of 1852 abolished it altogether. Seventeen years later the (Manx) Wills Act abolished the only remaining legal protection of the child's inheritance, the right not to be excluded from his father's will except by express mention with a legacy of at least 6d.

The statute which abolished inheritance rights to personal property among citizens and freemen of London in 1724 stated its purpose as follows:—

> "To the Intent that Persons of Wealth and Ability, who exercise the Business of Merchandise and other laudable Employment within the said City may not be discouraged from becoming free of the same, by reason of the Custom restricting the Citizens and Freemen thereof of disposing of their personal Estates by their last Wills and Testaments."

One of the results of the atmosphere of commercial and industrial expansion in the eighteenth and nineteenth centuries seems to have been a new absolutism in the power of the husband and father, since possessions were no longer regarded primarily as the maintenance of the family but as business capital. If the Manx *communio bonorum* had survived the influences of that time in its historic equalitarian form, it might well have been preserved today,

at least as an optional alternative to the separation of the property of man and wife. After the alterations of 1777 and 1852 however, the demand for the separation of the property of man and wife could be, and was, supported by the argument that it was the wife who endowed her husband with all her worldly goods, while he only endowed her with half his. Separate property need not have involved the abolition of widowright in Man any more than in the Channel Islands or Scotland, but this does not seem to have been realised at the time, and it was abolished by the Married Women's Property, Dower and Widowright Act of 1921, except for couples then already married.

To this day some Manx people seem to be unaware that their historic widowright was, almost in negligence, swept away in 1921. It is, however, of its history before 1777 of which those of them who believe in the equality of the sexes have most right to be proud; the joint and strikingly equal property rights of man and wife then received the first wound, to be finished off by two subsequent strokes in the following century and a half.

ANNE ASHLEY.

THE AMERICAN UNIFORM COMMERCIAL CODE

CHANGING times bring changing business customs. Sometimes the law to settle questions arising out of those changes lags behind. This is true whether the law is judge-made or statutory. The changes in business affairs which have come in the last half century make one of the reasons for the newly written Uniform Commercial Code which has now been finished through the combined efforts of the American Law Institute and the National Conference of Commissioners on Uniform State Laws. Codification of commercial law in the United States is not new. There have been separate statutes on various parts of commercial transactions beginning with the Negotiable Instruments Law in 1896. This statute borrowed freely from the Bills of Exchange Act. Likewise, the Uniform Sales Act of 1906 drafted by Professor Samuel Williston took much from the Sales of Goods Act. Other statutes covered other parts of commercial law; Warehouse Receipts, Trust Receipts, Stock Transfers, Bills of Lading.

The theory of the present Code as set out in the commentary to its title is that " commercial transactions " is a single subject of the law though it has many sides. One single business affair may involve contract for sale, a sale, the acceptance of a cheque or